

Court of Appeals, Division One

Civil Appeal

1 CA-CV 15-0282

SPRAGUE v. PHX BOARD et al.

Appellate Case Information

Case Filed: 1-May-2015

Case Closed: 30-Jan-2017

Decision

Dept/Composition

Department D

Hon. Andrew W. Gould

Hon. Peter B Swann

Hon. Patricia A Orozco

Side 1. KATHERINE SPRAGUE, a taxpayer and an abutting property owner, Plaintiff/Appellant

(Litigant Group) KATHERINE SPRAGUE

• Katherine Sprague

PRO SE

Side 2. CITY OF PHOENIX BOARD OF ADJUSTMENT; WALTER SPITZ; DAVID GEORGE; and DAN RAY, et al., Defendant/Appellee

(Litigant Group) CITY OF PHOENIX BOARD OF ADJUSTMENT

• City of Phoenix Board of Adjustment

Attorneys for: Defendant/Appellee

Brad Holm, Esq. (AZ Bar No. 11237)

Robert A Hyde, Esq. (AZ Bar No. 29337)

Paul M Li, Esq. (AZ Bar No. 21893)

(Litigant Group) WALTER SPITZ, et al.

• Walter Spitz

Attorneys for: Defendants/Appellees

David Cisewski, Esq. (AZ Bar No. 22841)

• David George

• Dan Ray

• North 4140 LLC

• David C and Ellen G George Revocable Living Trust 2/28/04

• 1930 EISR LLC

• 1900 BUILDING LLLP

• North 19-25 LLC

• Chestnut Properties LLC

• Lisbeth Ray

Side 3. PBB-TRG ACQUISITION COMPANY, LLC, Intervenor/Appellee

(Litigant Group) PBB-TRG ACQUISITION COMPANY, LLC

• PBB-TRG Acquisition Company LLC

Attorneys for: Intervenor/Appellee

Martin A Aronson, Esq. (AZ Bar No. 9005)

Michael W Zimmerman, Esq. (AZ Bar No. 27442)

CASE STATUS

Jan 30, 2017....Case Closed

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR LC2014-000574-001	Statutory Special Action		John Christian Rea, Authoring Judge of Order		

CASE DECISION

22-Dec-2016 MEMORANDUM DECISION

Peter Swann.....Author

Andrew Gould.....Concur

Patricia Orozco.....Concur

Filed: 22-Dec-2016

Mandate: 30-Jan-2017

Decision Disposition

Affirmed

58 PROCEEDING ENTRIES

1. 1-May-2015 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 04/03/15

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2. 1-May-2015 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits - not sent at this time
3. 7-May-2015 FILED: Notice to Parties re: Appellant's Fee/Case Management Statement/Brief Due
4. 11-May-2015 RECEIPT No.: 2015-00622 ; \$280.00, Authorization: #17-183820937, Applied to: KATHERINE SPRAGUE - Class A Filing Fee (\$280.00) Paid for: - By KATHERINE SPRAGUE
5. 21-May-2015 FILED: Appellee's Notice re: Both Appellee's Fee/Appellant's Brief Due
6. 26-May-2015 FILED: Notice of Paying Filing Fee; Certificate of Service (Intervenor/Appellee PBB-TRG)
7. 27-May-2015 FILED: Case Management Statement (Appellant Pro Per)
8. 29-May-2015 RECEIPT No.: 2015-00745 ; \$140.00, Authorization: #48013892247, Applied to: PBB-TRG ACQUISITION COMPANY, LLC - Class B Filing Fee (\$140.00) Paid for: Morrill & Aronson PLC - By Integrated Resource Systems IN
9. 7-Jul-2015 FILED: Request for Oral Argument; Certificate of Service (Appellant)
10. 7-Jul-2015 FILED: Appellant's Opening Brief; Certificate of Compliance; Certificate of Service
11. 13-Jul-2015 RECEIPT No.: 2015-00952 ; \$280.00, Authorization: Ref1#94010163500, Applied to: KATHERINE SPRAGUE - Overpayment Class A (\$280.00) Paid for: KATHERINE SPRAGUE - By Intresys Inc (Memo: Duplicate over payments see recpt #2015-00622 refund needed)
12. 23-Jul-2015 FILED: Letter, 07/23/15, from Court to Appellant, refunding duplicate Appellant Filing Fee
13. 27-Jul-2015 FILED: Appellant's Motion to Accept Opening Brief as Timely Filed (Appellant Pro Per)
14. 28-Jul-2015 ORDERED: Appellant's Motion to Accept Opening Brief as Timely Filed (Appellant Pro Per) = GRANTED and accepting brief as filed on 7/7/15. Melina Brill ProTem Judge - Author
15. 13-Aug-2015 FILED: Motion For Extension of Time to File Answering Brief (Motion for Procedural Order) (PBB-TRG); Certificate of Service (Appellee)
16. 17-Aug-2015 ORDERED: Motion For Extension of Time to File Answering Brief (Motion for Procedural Order) (PBB-TRG) (Appellee) = GRANTED (all answering briefs). Due date EXTENDED from Monday, 08-24-2015 to Wednesday, 09-23-2015 Melina Brill ProTem Judge - Author
17. 4-Sep-2015 FILED: Motion to Substitute Real Parties in Interest and Dismiss Disinterested Parties (PPB-TRG Acquisition); Certificate of Service; Exhibit 1; Exhibit 2 (Intervenor)
18. 8-Sep-2015 FILED: Answering Brief of Defendant/Appellee City of Phoenix Board of Adjustment; Certificate of Compliance Answering Brief of Defendant/Appellee City of Phoenix Board of Adjustment; Certificate of Service Answering Brief of Defendant/Appellee City of Phoenix Board of Adjustment
19. 11-Sep-2015 FILED: Notice of Filing Transcript and Notice of Service of Transcript; Certificate of Service (Appellee PBB)
20. 11-Sep-2015 FILED: Reporters Transcript - 3/20/15 - Oral Argument (William J. Garling) (Appellee PBB)
21. 14-Sep-2015 FILED: Answering Brief of Appellee/Defendant PBB-TRG; Certificate of Compliance; Certificate of Service (Appellee PBB)
22. 14-Sep-2015 FILED: Appendix Vol. 1 (Appellee PBB)
23. 14-Sep-2015 FILED: Appendix Vol. 2 (Appellee PBB)
24. 14-Sep-2015 FILED: Appendix Vol. 3 (Appellee PBB)
25. 14-Sep-2015 FILED: Certificate of Service (Intervenor)
26. 21-Sep-2015 FILED: Appellant's Motion to Extend Time Concerning Reply Brief (Appellant Pro Per)
27. 23-Sep-2015 FILED: Appellant's 09-23-15 Motion for Extension of Time and to Consolidate Reply (Appellant Pro Per)

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28.	24-Sep-2015	ORDERED: Appellant's Motion to Extend Time Concerning Reply Brief (Appellant Pro Per) = GRANTED and extending time for filing a consolidated reply brief to both answering briefs to/including 10/29/15. Melina Brill ProTem Judge - Author
29.	28-Sep-2015	FILED: Appellant's Opposition to PPB-TRG's Motion to Substitute "TRG Indian School, L.P." as "Real Party in Interest," and Appellant's Request for hearing re: PBB-TRG's 09-04-15 Motion (Appellant Pro Per)
30.	2-Oct-2015	FILED: Reply in Support of Motion to Substitute Real Parties in Interest and Substitute Disinterested Parties; Certificate of Service; Exhibit 1 to Reply in Support of Motion to Substitute Real Parties in Interest and Substitute Disinterested Parties (Intervenor)
31.	8-Oct-2015	FILED: Appellant's Motion to Add "Trinsic Residential Group" as a Party to This Appeal and Appellant's Request for a Hearing on the Same (Appellant Pro Per)
32.	22-Oct-2015	FILED: Appellant's Motion to Exceed Word Limit (Appellant Pro Per)
33.	22-Oct-2015	FILED: Response to Appellant's Motion to Add Trinsic Residential Group as a Party and Request for Hearing; Certificate of Service; Exhibit 1 (Intervenor)
34.	28-Oct-2015	FILED: Appellant's Latest Motion to Exceed Word Limit (Appellant Pro Per)
35.	28-Oct-2015	FILED: Appellant's Reply RE: Making "Trinsic Residential Group: A Party in This Appeal; Certificate of Service (Appellant)
36.	30-Oct-2015	ORDERED: Appellant's Motion to Exceed Word Limit and Appellant's Latest Motion to Exceed Word Limit (Appellant Pro Per) = DENIED without prejudice to appellant filing a new motion that indicates word court in reply brief. Melina Brill ProTem Judge - Author
37.	2-Nov-2015	FILED: Appellant's 11-02-15 Motion To Exceed the Court's Word Limit As to Appellant's Reply; Certificate of Service (Appellant)
38.	4-Nov-2015	ORDERED: deferring a ruling on these motions ("Appellee's Motion to Substitute Real Parties... and Appellant's Motion to Add Trinsic...") to panel that considers this appeal on merits. FURTHER ORDERED: Motion To Exceed the Court's Word Limit As to Appellant's Reply; (Appellant) = GRANTED to file brief with up to 14,000 words. FURTHER ORDERED: Reply brief shall be filed on/before 11/24/15. Melina Brill ProTem Judge - Author
39.	9-Nov-2015	FILED: Notice of Change of Address; Certificate of Service (Intervenor/Appellee)
40.	24-Nov-2015	FILED: Appellant's Reply Brief; Certificate of Compliance (sic) Appellant's Reply Brief; Certificate of Service Appellant's Reply Brief (Appellant Pro Per)
41.	3-Dec-2015	FILED: Appendix 1 to Appellant's Reply Brief (Appellant Pro Per)
42.	3-Dec-2015	FILED: Appendix 2 to Appellant's Reply Brief (Appellant Pro Per)
43.	3-Dec-2015	FILED: Appendix 3 to Appellant's Reply Brief; Certificate of Service for Reply Brief Appendixes 1, 2, and 3 (Appellant Pro Per)
44.	7-Dec-2015	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
45.	8-Dec-2015	ORDERED: Request for Oral Argument (Appellant) = DENIED. Hon Michael J Brown - Author
46.	17-Dec-2015	FILED: Supplemented Superior Court e-Record with Revised Index of Record
47.	17-Dec-2015	FILED: Additional Record on Appeal: Exhibits: City of Phoenix - filed 12/23/14 - 1 Exhibit in Manila Envelope; City of Phoenix - filed 12/23/14 - 1 CD in manila envelope
48.	26-Apr-2016	FILED: Appellant's 04-26-16 Attorney Sanctions Motion and to Also Strike Unlawfully Added Evidence; Certificate of Service; Attachment A; Attachment B and then Attachment C (Appellant)
49.	11-May-2016	FILED: Notice of Substitution of Counsel; Certificate of Service; Order Approving Substitution of Counsel (Intervenor/Appellee)
50.	13-May-2016	FILED: Response to Motion for Attorney Sanctions and Motion to Strike Unlawfully Added Evidence; Certificate of Service (Intervenor)
51.	16-May-2016	FILED: Response to Motion for Attorney Sanctions and Motion to Strike Unlawfully Added Evidence; Certificate of Service (Appellee)

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58 PROCEEDING ENTRIES

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| 52. | 1-Jun-2016 | FILED: Appellant's Reply RE: Attorney Sanctions Motion and To Strike Unlawfully Added Evidence; Certificate of Service; Exhibit 1 (Appellant) |
| 53. | 2-Jun-2016 | ORDERED: Denying Appellant's 04/26/2016 request for hearing. FURTHER ORDERED: Denying Appellant's 04-26-16 Motion to Strike Unlawfully Added Evidence. FURTHER ORDERED: Deferring ruling on request for sanctions to merits panel. Hon Margaret H Downie - Author |
| 54. | 7-Jul-2016 | CLNDR: CONFERENCE, Department D, 9-14-16, COURTROOM 2. |
| 55. | 8-Aug-2016 | FILED: Memorandum moving conference from 9/7/16 to 9/14/16 (Judge Gould) |
| 56. | 22-Dec-2016 | MEMORANDUM DECISION (Affirmed) Hon Peter B Swann - Author; Hon Andrew W Gould - Concur; Hon Patricia A Orozco - Concur |
| 57. | 22-Dec-2016 | FILED: Memorandum Decision Distribution List |
| 58. | 30-Jan-2017 | FILED: Mandate, Record returned to superior court. |